

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

CECIL E. HOPKINS,

individually, and on behalf of a Class of all
others similarly situated,

Plaintiff,

vs.

KANSAS TEACHERS COMMUNITY
CREDIT UNION,

Defendant

vs.

MARATHON ROTHSCILD CREDIT
UNION, et al.,

Third Party Defendants.

Case No. 08-5052-CV-SW-GAF

**PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
ON CLASS CLAIMS FOR VIOLATIONS OF UNIFORM COMMERCIAL CODE,
RELATED AFFIRMATIVE DEFENSES, AND STATUTORY DAMAGES**

Plaintiff Cecil E. Hopkins, on behalf of himself and each of the members of the Class, respectfully moves the Court pursuant to Fed.R.Civ.P. 56(a) for its Order granting Plaintiff and the members of the Class partial summary judgment on the following claims, and denial of the following related affirmative defenses:

1. Plaintiff's and the Class Member's claims that Defendant Kansas Teachers Community Credit Union violated Missouri's Commercial Code, specifically §§400.9-610, 400.9-611 and 400.9-614 RSMo and K.S.A. §§84-9-610, 84-9-610 and 84-9-611, by its failure to (1) provide Plaintiff and all Class members – including all co-debtors and obligors – with a notification of disposition and/or (2) to provide Plaintiff and all Class members with a

notification of disposition in the form or, and containing the content required by the Commercial Code at §400.9-614 RSMo and K.S.A. §84-9-614, as set forth at Count I of the First Amended Petition. *See* **Ex. 1**, at ¶¶8-9, 45-55 (Doc. 1-2); and

2. Defendant Kansas Teachers Community Credit Union's affirmative defenses as set forth in its Answer to the First Amended Petition at Fifth, Seventh and Thirteenth Defenses (Doc. 7)); and

3. Plaintiff and the Class members' claims for statutory damages and relief for those violations of the Commercial Code, as allowed and authorized by §400.9-625(c)(2) RSMo and K.S.A. §84-9-625(c)(2). **Ex. 1**, at ¶52 and "Prayer for Damages."

As is set forth in the accompanying Suggestions, with respect to each of these claims and defenses, there is no genuine dispute as to any material fact and Plaintiff, and the Class members, are entitled to judgment as a matter of law.

Dated: October 14, 2010

Respectfully submitted,

WALTERS BENDER STROHBEHN
& VAUGHAN, P.C.

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ATTORNEYS FOR PLAINTIFF AND
CLASS COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that I filed this document electronically with the United States District Court for the Western District of Missouri with notice of case activity to be generated and sent electronically by the Clerk of the Court to all designated persons this: **14th day of October 2010**

/s/ Garrett M. Hodes

Attorneys for Plaintiff